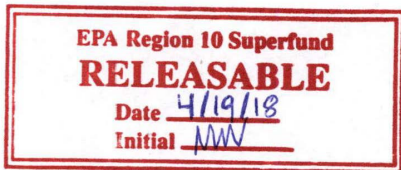


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RESOLUTE MANAGEMENT

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**Resolute** Management Inc.  
**Mid-Atlantic Division**  
United Plaza - Suite 700  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103

# FAX COVER SHEET

DATE: October 28, 2011

TO:	Mr. Jeffrey Miller	FAX NO.	360-694-6413
COMPANY:	Miller Nash Vancouver, WA 98660	PHONE NO.	
FROM:	Ivana Byler	FAX NO.	276-765-9933
		PHONE NO.	276-765-3778
RE:	<u>Kaiser Cement Corp.</u>	No. of Pages Including Cover Sheet	
			4

**MESSAGE:**

Please see the attached.

KG2005354

**Resolute** Management Inc.

Ivana Byler  
Senior Claims Specialist  
267.765.3778 – tele  
267.765.9933 – fax  
[ivana.byler@resolute-midatlantic.com](mailto:ivana.byler@resolute-midatlantic.com)

Mid-Atlantic Division  
30 South 17<sup>th</sup> Street  
United Plaza – Suite 700  
Philadelphia, PA 19103

October 28, 2011

**VIA FACSIMILE (360.694.6413) AND REGULAR MAIL**

Mr. Jeffrey Miller  
Miller Nash  
500 East Broadway  
Suite 400  
Vancouver, WA 98660

Re: Kaiser Cement Corp.  
Site: Lower Duwamish Waterway Superfund Site, WA

Dear Mr. Miller:

I am writing on behalf of Resolute Management, Inc. administering claims on behalf of Industrial Indemnity Co. and International Insurance Co. (the "Companies"). As this matter has been assigned to me, please address any future correspondence to my attention.

This letter will acknowledge your correspondence dated August 15, 2011 and your subsequent e-mail dated October 3, 2011 that ACE forwarded to us for handling. Your August 15 and October 3 correspondences referenced two letters dated December 22, 2010 and December 21, 2010 sent on behalf of Kaiser Cement Corp. ("KCC") and Kaiser Gypsum Co., Inc. ("KGC") respectively. Please note that we checked our files and were not able to locate either of these letters and it is not clear to which address these letters were sent. It appears that we had not previously received the letters in this office.

**THE CLAIM**

Based upon the information you provided to us in your letters, we understand that, on behalf of KCC and KGC, you are placing the Companies on notice of this "potential" claim based on the U.S. EPA's requests for information pursuant to Section 104(e) of the CERCLA concerning the Lower Duwamish Waterway site in Seattle (the "Site").

With respect to KGC, we understand that you filed a preliminary response to the EPA's request and that KGC is currently in process of reviewing additional documents in order to fully respond to the request. You confirmed that KGC owned property and operated a gypsum plant on the eastern side of the Site from 1952 to 1978 and, therefore, is potentially liable for any contamination of the Site during KGC's ownership of and operations on the property.

Similarly, KCC received a request for information from the U.S. EPA pursuant to Section 104(e) of the CERCLA. KCC also filed a preliminary response to the EPA's information request based on information available at that time and is in process of reviewing available documents in order to supplement its preliminary response. We understand that your preliminary review of the documents revealed that KCC owned property and conducted cement operations at two separate locations along the

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October 28, 2011  
Mr. Jeffrey Miller  
Re: Kaiser Cement Corp.  
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Site, the Westside property that it purchased in June 1944 and sold in 1985 and the Eastside property that it leased in 1965 and eventually sold in 1987.

You report that the extent of KCC and KGC's liability, if any, is unknown at this time but believe that as a former owner of the property within the Site boundaries, KCC and KGC may be liable for any contamination of the Site that took place during their ownership of the property and/or operations of the plant. To date, we have not received any information concerning the full nature and extent of contamination, the estimated cost of cleaning up the site, or any apportionment of responsibility among different parties.

#### THE POLICIES

In your letters, you put the Companies on notice of this "potential claim" under two policies: 1) JE 8312723 effective 4/1/1981 to 4/1/1983 and 2) 523-317273 effective 5/1/84 to 4/1/1985.

As you are aware, the policies you identified are excess policies, which would respond to this matter, if at all, only upon the exhaustion of the underlying policies by payment of losses thereunder. We have not received any evidence of any such exhaustion and, thus, we will take no present action under these excess policies, in defense or indemnification, on behalf of KCC and KGC until such time as they presents evidence to us that retained limits or primary limits of coverage underlying the excess policies are properly exhausted and allocated or are nearing exhaustion. Please communicate with us as soon as practicable in the event you should find that you have additional information concerning exhaustion of the policies. Should additional information warrant a review of our position, we reserve the right to consider the availability of coverage, in whole or in part, under all of the provisions of the alleged excess policy.

In the event of proper exhaustion of the retained limits and/or underlying insurance, please be advised that there are a number of coverage issues which may limit or preclude coverage, in whole or in part, under the policies. At this time, we would like to bring to your attention one of the threshold issues, namely a named insured issue. Our policies were issued to Kaiser Cement Corporation. Your December 21, 2010 letter states that Industrial Indemnity Co and International Insurance Co sold the above-referenced policies to "KGC or its parent Hanson Permanente Cement, Inc (formerly known as Kaiser Cement & Gypsum Corporation and Kaiser Cement Corporation), naming KGC as an additional insured during the period from 1984 through 1985." Your December 20, 2010 letter contains the same language except that the time frame is from "1953 through 1985". We reviewed the policies and were not able to find the language in the policies that specifically identifies KGC as an additional insured. To the extent that you are claiming that KGC is an insured under the KCC policies, please explain a corporate relationship between these two entities and provide us with any information and documents showing that KGC is entitled to coverage under the policies.

At this time, the Companies reserve all of their rights based in law or equity, under any of the terms, conditions, definitions, exclusions or endorsements which are set forth in the policies or in any underlying policy which are incorporated by the policies. We fully reserve the right to rely upon any language, terms, conditions or exclusions in subject policies, which may be relevant to the issues of coverage for the referenced claim, whether or not quoted or discussed in this letter. Any actions taken by us shall not constitute an admission of liability or an admission of coverage and should not be deemed a waiver of any right to disclaim liability or coverage. We further reserve the right to supplement this letter and/or assert defenses to coverage should it be warranted by further developments.

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Mr. Jeffrey Miller  
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Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

  
Ivana Byler

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